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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,342	04/20/2001	Joseph I. Kravitz	E14.2-9321	1879

490 7590 09/28/2005

VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

EXAMINER

MARKOFF, ALEXANDER

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 09/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/839,342

Applicant(s)

KRAVITZ ET AL.

Examiner

Alexander Markoff

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 21-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Herdt et al (US Patent No 5,998,358).

Herdt et al teach a method as claimed. See entire document, especially columns 3-6 and 9.

The method comprises the steps as claimed. The method comprises the use of the specifically claimed polymers at specifically claimed pH. It is noted that the applied document teaches the use of the same commercially available products as the instant invention.

3. Claims 21-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Oakes et al (US Patent No 5,858,117).

Oakes et al teach a method as claimed. See entire document, especially columns 10, 12, 36-37.

The method comprises the steps as claimed. The method comprises the use of the specifically claimed polymers at specifically claimed pH. It is noted that the applied

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document teaches the use of the same commercially available products as the instant invention.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 21-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Troller (Sanitation in Food Processing) in view of Lange (Detergents and Cleaners. A Handbook for Formulators) and Oakes et al and Herdt et al.

Troller teaches that Clean-in-Place (CIP) systems are conventionally used in dairy operations and shows a conventional sequence of a CIP cleaning. See pages 44-51.

Troller teaches that the conventional CIP operation comprises the claimed steps of flushing and washing.

Thus, Troller teaches the claimed method except for specific recitation of the use of the specifically claimed neutralized anionic polymers in the solutions.

Lange in his Handbook evidences that the use of the referenced polymers was conventional in CIP formulations for food processing industry. Lange further provides a discussion regarding properties of the referenced polymers and states that the polymers are used to increase the performance of cleaning. Lange further teaches that the referenced polymers are conventionally used as sequestering agents. See pages 124-132.

Having the teachings of these two cited handbooks it would have been obvious to an ordinary artisan at the time the invention was made to use the polymers disclosed by Lange at any stage of conventional CIP operations in dairy industry disclosed by Troller as water conditioning/sequestering agents in order to increase the performance of cleaning, with reasonable expectation of success, because Lange teaches that such polymers are conventionally used to increase the performance of cleaning, especially in view of teaching of Oakes et al and Herdt et al, which evidence that it was known to use the referenced polymers in different formulations for CIP cleaning in dairy operations.

Response to Arguments

7. Applicant's arguments filed 7/15/05 have been fully considered but they are not persuasive.

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8. The applicants amended the claims and argue that the previously applied rejection is not proper because the prior art teaches the use of the claimed polymers only with connection with highly alkaline solutions. This is not persuasive for the reasons provided above in the rejection made under 35 USC 103.

9. New rejections are added. The newly discovered documents are applied under 35 USC102(b) and are used as additional evidence to support the examiner's position in the rejection made under 35 USC103.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Markoff whose telephone number is 571-272-1304. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alexander Markoff

**ALEXANDER MARKOFF
PRIMARY EXAMINER**